

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Laird Analyst: Gloria McConnell Bill Number: AB 1502

Related Bills: See Prior Analysis Telephone: 845-4336 Amended Date: 05/07/03

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Natural Heritage Preservation Tax Credit/Public Entity Property Acquisitions

- ☒ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as amended April 10, 2003.
- ☐ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.
- ☐ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.
- ☐ FURTHER AMENDMENTS NECESSARY.
- ☐ DEPARTMENT POSITION CHANGED TO _____.
- ☒ REMAINDER OF PREVIOUS ANALYSES OF BILL AS INTRODUCED AND AS AMENDED April 10, 2003, STILL APPLY.
- ☒ OTHER - See comments below.

SUMMARY

Under this bill, taxpayers would authorize the Franchise Tax Board (FTB) to disclose to governmental agencies for purposes of reimbursing the General Fund (GF) the amount of the Natural Heritage Preservation Tax Credit (preservation tax credit) claimed on the taxpayer's tax return.

SUMMARY OF AMENDMENTS

These May 7, 2003, amendments would:

- require that an application to donate property include and may not be accepted unless there is a signed authorization for FTB to disclose information necessary to reimburse the GF for the preservation tax credit as required by this bill; and
- require FTB to notify the Wildlife Conservation Board (WCB) annually of the amount of the preservation tax credit claimed during the year, subject to the taxpayer signing the disclosure authorization in the application, if such authorization is needed.

This bill as amended still does not change either the amount awarded or claimed. Therefore, this bill would not impact tax revenue, as discussed in the previous analysis.

The arguments/policy concerns identified in the previous analyses still apply and for convenience are provided below.

EFFECTIVE/OPERATIVE DATE

This bill would be effective and operative January 1, 2004.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Legislative Director

Date

Brian Putler

5/23/03

POSITION

Pending.

ANALYSIS

THIS BILL

This bill would allow public entities to use bond funds to acquire property donated pursuant to the Natural Heritage Preservation Tax Credit Act by reimbursing the GF for the amount of the preservation tax credit. The department or local agency acquiring the donated property would be required to make the reimbursement by transferring the bond funds to the Natural Heritage Tax Credit Reimbursement Account, which is created by this bill. The transfer would be made on the basis of information provided by the FTB regarding the preservation tax credit claimed in that tax year.

The application of the prospective donor of the property would be required to include, and may not be accepted, unless the donor signs authorization for the FTB to disclose information necessary to reimburse the GF as required by the bill.

The FTB would be required annually to provide the amount of the preservation tax credit with respect to each property claimed each year to the WCB. However, FTB would disclose tax return information of a taxpayer only if the taxpayer consented to the disclosure in the application submitted in accordance with this bill.

Current Practice

Currently, the WCB, under a memorandum of understanding, provides FTB with certain information about the preservation tax credit that it awards, which includes the donor/taxpayer's name, identification number, description of the donated property, and project or tax certificate number. To claim the preservation tax credit, FTB's tax form is designed so that the taxpayer provides FTB with certain information, which includes the donor's name as shown on the certificate, and type of donated property.

IMPLEMENTATION CONSIDERATIONS

The May 7, 2003, amendments resolve the department's implementation considerations. Staff anticipates that under this bill, given WCB's current cooperative information-sharing effort and FTB's design of the tax return for income tax purposes, FTB would receive sufficient information to implement and administer its responsibilities under this bill.

However, for the following reasons, staff anticipates it may be more cost-effective for FTB to manually extract the information to be shared with WCB rather than make changes to its existing computer systems and create a new automated information-sharing process:

- It is anticipated that the number of taxpayers that would claim this preservation tax credit each year would be minor;
- To create a new automated process would require major changes to the existing computer systems to capture all the necessary information relating to the claimed credit and particular property/project; and
- A case-by-case determination may have to be made of the disclosure of information that would constitute a disclosure of tax return information, hence, disclosure would hinge on the signed authorization in the application.

FISCAL IMPACT

Departmental Costs

Staff will develop an implementation plan that identifies the most cost-effective way to implement this bill as the bill moves through the legislative process. Departmental costs are not expected to be significant.

ARGUMENTS/POLICY CONCERNS

Disclosure of tax return information may be counterproductive to the donation of the property contemplated by this bill. Taxpayers may be reluctant to donate property knowing that their tax return information must be disclosed.

The majority of tax returns are filed on a calendar-year basis. Tax credits are claimed on tax returns filed after the close of that calendar year. For fiscal purposes, ideally, the GF reimbursement would be made in the same fiscal year as the tax expenditure (claimed tax credit). However, for FTB to supply the information about the claimed tax credit, the timeliness of the reimbursement may be an issue. For FTB to disclose this tax credit information, the tax return would have to be processed and posted to the taxpayer's account. Therefore, for even those returns filed in March and April each year, it is doubtful FTB could have the tax credit information available for disclosure in time for the governmental agency to make the transfer before the end of the state's fiscal year. For tax returns filed by the extended due date, the information would generally not be available for disclosure until after October following the close of the state's previous fiscal year. The timeliness of the reimbursement would also be at issue with amended returns that typically are filed in subsequent tax years. Additionally, the timeliness of the reimbursement would be at issue when more than one taxpayer owns the property being donated (e.g., partnerships) and those taxpayers have different tax year endings.

For federal tax purposes the donation of the property could be characterized as a charitable deduction. However, the characterization of the donation may be changed because of this bill. Because the property absent this bill would have been acquired through a sale using bond funds, the tax credit now may look more like a sale than a donation, with the credit being the sales price.

LEGISLATIVE STAFF CONTACT

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